CURRENT LEGISLATION

STATUTES REGULATING AVIATION.—The extended use of flying machines in the past few years has created a need for the regulation and supervision of the use of aircraft. Several state legislatures have recently enacted statutes[1] designed to fill the need by remedying the more flagrant abuses. Confronted with practically the same problems, the states adopted substantially similar regulatory legislation. The provisions of the different statutes may be conveniently grouped under four heads: (1) those providing for the registration of aircraft; (2) those providing for the licensing of operators; (3) those regulating flying over populated areas; (4) those restricting stunt flying.

All the statutes but that of Minnesota provide for annual registration[2] and the display of the registration number. In California and Connecticut the letters must be at least three feet in height while the other states insist only that the figures be conspicuously displayed. In addition, Connecticut provides that the number must be distinguishable from the ground at a reasonable height.

Licenses to operate are usually granted by the same office or board that grants the certificates of registration.[3] The minimum age for licensed operators varies from 18 years in Oregon to 21 years in Connecticut. An exception is usually made in the case of an unlicensed operator in the company of one who has been licensed. He is permitted to pilot the aeroplane but the licensed operator is responsible for the violation of any of the provisions of the act. Former military or naval pilots are either permitted to fly without licenses or are granted licenses without examination. The provisions regulating non-residents vary. In California a non-resident may fly without a license providing he gets special permission for exhibition flights. A non-resident may pilot an aircraft in Connecticut for not more than thirty days a year if he has complied with the laws of the state of his residence, providing that state has a licensing system. Non-residents of Kansas may, if they have complied with the laws of the state of their residence, pilot aircraft in the state for any but commercial purposes for not more than thirty days at a time. Connecticut and California grant licenses of three classes, *viz.*, those for (1) spherical or free balloons, (2) dirigible balloons, (3) heavier-than-air machines, and thus assure a more specialized knowledge on the part of the different types of aeronauts.

Practically all of the statutes[4] regulate flying over populated areas. A safe altitude is generally defined as one sufficiently high to permit the air-craft to glide at all times to an unobstructed place. Exceptions are made for the beginning and end of a flight and in the case of fog or a forced landing, but at all other times, such altitude is prescribed as the lowest. Several of the statutes also specifically require a general minimum expressed in feet.[5]

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[1] Cal., Stat. 1921, c. 783; Conn., Acts. 1921, c. 207, amending Gen. Stat. (1918) c. 176; Kan., Laws 1921, c. 264; Me., Laws 1921, c. 161; Minn., Laws 1921, c. 433; Ore., Laws 1921, c. 45 and 49.

The framing of a uniform act was discussed by the National Conference of Commissioners on Uniform State Laws at its thirty-second annual conference. See (1922) 28 Case and Comment 262.

[2] In Connecticut registration is effected with the Commissioner of Motor Vehicles; in California with the superintendent of the Motor Vehicle Department; in Oregon with State Board of Aeronautics; in Maine with the Secretary of State, or the Army and Navy Board; in Kansas with the State Aircraft Board.

[3] The exceptions are Oregon and Maine in both of which states the Secretary of State alone is given this power.

[4] Except Maine.

[5] Connecticut, Minnesota and Kansas.

Some states are more strict than others in the regulation of acrobatic aeronautics. For example, the Connecticut statute provides that there is to be no stunt flying except over a known or recognized field, in Maine an aircraft may not be operated over buildings, persons or animals in such a manner as to endanger the life of the pilot or the safety of those below, while in California aerial acrobatics are prohibited at an altitude of less than 1500 feet, over populated districts and over an enclosure at an exhibition, that is not closed to spectators. The Connecticut and Kansas statutes prohibit the dropping of any matter except over places established for the purpose, and the former has an unique provision giving lighter-than-air aircraft the right of way over aereoplanes and requiring that aircraft turn to the right in passing one another.

RIGHTS OF SAVINGS DEPARTMENT DEPOSITORS AGAINST GENERAL ASSETS OF A TRUST COMPANY UNDER A STATUTE MAKING THEM SECURED CREDITORS AS TO SPECIFIC ASSETS.—By statute in Massachusetts[1] the deposits in the savings department of a trust company and the investments made with them are to be appropriated solely to the payment of such deposits and shall not be mingled with other funds or entered in the same accounts. The capital stock of such company with the liabilities of the stockholders thereunder is held as security for the payment of the deposits and in addition to this statutory security the persons making such deposits have an equal claim with the other creditors upon the capital and other property of the corporation. In a recent case[2] the Commissioner of Banks, liquidating an insolvent trust company, petitioned the court for authority to pay the savings department depositors out of commercial department funds on the face of the several claims without deduction of the value of the security, whether realized or not. The court refused to grant the authority requested and held that the savings bank depositors could share with the general creditors only for the balance of their claims after deducting the value of the property specially appropriated for their security.

The case raised a question of statutory interpretation that has long troubled the courts. What is the content and nature of this "equal" claim upon the other assets that is given to the secured creditors? The answer to this question depends on the extent to which a secured creditor may also consider himself a general creditor. Two basically different solutions present themselves.[3] Either he can (1) realize on the security or deduct its value and prove for or collect dividends upon the remainder of the claim,[4] or (2) prove for the entire claim as of the time of insolvency or of the time of the filing of the proof of claim, and use the security to cover the deficit, returning any surplus.[5] The former rule has been embodied in several state insolvency statutes.[6] It is also the rule

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[1] Mass. Gen. Laws (1921) c. 172, §§ 60-64.

[2] *Petitions of Allen, Commissioner of Banks* (Mass. 1922) 136 N. E. 269.

[3] In *Merrill* v. *National Bank of Jacksonville* (1899) 173 U. S. 131, 135, 19 Sup. Ct. 360, the four different rules dealing with the rights of creditors holding collateral security in the distribution of insolvent estates, are listed. The rules differ as they are based upon one or the other of the two views presented.

[4] *Merchants' National Bank* v. *Eastern R. R.* (1878) 124 Mass. 518; *Butler* v. *Commonwealth Tobacco Co.* (1908) 74 N. J. Eq. 423, 70 Atl. 319.

[5] *Merrill* v. *National Bank of Jacksonville, supra,* footnote 3; *People* v. *Remington* (1890) 121 N. Y. 328, 24 N. E. 793. But in interpreting N. Y., Laws 1914, c. 36, § 15 (Debtor and Creditor Law, § 15) the contrary was held in the case of a general assignment. *Matter of Vietor* (1917) 101 Misc. 317, 166 N. Y. Supp. 1018; *aff'd* (1918) 224 N. Y. 707, 121 N. E. 896.

[6] Many such statutes have been passed and the following will serve as examples: Cal., Stat. 1895, c. 143, § 48; Me., Laws 1878, c. 74, § 24; Conn., Acts 1853, c. 60, § 19.